

AMENDED IN SENATE JUNE 27, 2006

AMENDED IN ASSEMBLY MAY 26, 2006

AMENDED IN ASSEMBLY MAY 3, 2006

AMENDED IN ASSEMBLY APRIL 18, 2006

AMENDED IN ASSEMBLY MARCH 29, 2006

AMENDED IN ASSEMBLY MARCH 13, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 1873**

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**Introduced by Assembly Member Torrico**  
**(Coauthors: Assembly Members Dymally, *Garcia*, Montanez, and**  
**Spitzer)**

January 18, 2006

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An act to amend Section 1255.7 of the Health and Safety Code, and to amend Section 271.5 of the Penal Code, relating to child protection.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1873, as amended, Torrico. Child protection: safe surrender.

Existing law designates certain locations as safe-surrender sites for the safe surrender of newborn children who are 72 hours of age or younger.

This bill would expand the scope of those provisions to apply to children who are 30 days old or younger. The bill would permit a local fire agency upon the approval of the appropriate governing body of the agency to designate a safe-surrender site. The bill would specify that a safe-surrender site and its personnel have no liability for a surrendered child prior to taking actual physical custody of the child.

By imposing new duties on local officials, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 1255.7 of the Health and Safety Code is  
2 amended to read:

3     1255.7. (a) (1) For purposes of this section, “safe-surrender  
4 site” means any of the following:

5     (A) A location *that has been* designated by the board of  
6 supervisors of a county or by a local fire agency upon the  
7 approval of the appropriate local governing body of the agency to  
8 be responsible for accepting physical custody of a minor child  
9 who is 30 days old or younger from a parent or individual who  
10 has lawful custody of the child and who surrenders the child  
11 pursuant to Section 271.5 of the Penal Code. Before designating  
12 a location as a safe-surrender site, the designatory entity shall  
13 consult with the governing body of the city, if the site is located  
14 in a city, and with representatives of any fire department and any  
15 child welfare agency that may provide services to a child who is  
16 surrendered at the site if that location is selected.

17     (B) A location within a public or private hospital that is  
18 designated by that hospital to be responsible for accepting  
19 physical custody of a minor child who is 30 days old or younger  
20 from a parent or individual who has lawful custody of the child  
21 and who surrenders the child pursuant to Section 271.5 of the  
22 Penal Code.

23     (2) For purposes of this section, “parent” means a birth parent  
24 of a minor child who is 30 days old or younger.

1 (3) For purposes of this section, “personnel” means any person  
2 who is an officer or employee of a safe-surrender site or who has  
3 staff privileges at the site.

4 (4) A hospital and any safe-surrender site designated by the  
5 county board of supervisors or by a local fire agency upon the  
6 approval of the appropriate local governing body of the agency  
7 shall post a sign utilizing a statewide logo that has been adopted  
8 by the State Department of Social Services that notifies the  
9 public of the location where a minor child 30 days old or younger  
10 may be safely surrendered pursuant to this section.

11 (b) Any personnel on duty at a safe-surrender site shall accept  
12 physical custody of a minor child 30 days old or younger  
13 pursuant to this section if a parent or other individual having  
14 lawful custody of the child voluntarily surrenders physical  
15 custody of the child to personnel who are on duty at the  
16 safe-surrender site. Safe-surrender site personnel shall ensure that  
17 a qualified person does all of the following:

18 (1) Places a coded, confidential ankle bracelet on the child.

19 (2) Provides, or makes a good faith effort to provide, to the  
20 parent or other individual surrendering the child a copy of a  
21 unique, coded, confidential ankle bracelet identification in order  
22 to facilitate reclaiming the child pursuant to subdivision (f).  
23 However, possession of the ankle bracelet identification, in and  
24 of itself, does not establish parentage or a right to custody of the  
25 child.

26 (3) Provides, or makes a good faith effort to provide, to the  
27 parent or other individual surrendering the child a medical  
28 information questionnaire, which may be declined, voluntarily  
29 filled out and returned at the time the child is surrendered, or  
30 later filled out and mailed in the envelope provided for this  
31 purpose. This medical information questionnaire shall not require  
32 any identifying information about the child or the parent or  
33 individual surrendering the child, other than the identification  
34 code provided in the ankle bracelet placed on the child. Every  
35 questionnaire provided pursuant to this section shall begin with  
36 the following notice in no less than 12-point type:

37  
38 NOTICE: THE BABY YOU HAVE BROUGHT IN TODAY  
39 MAY HAVE SERIOUS MEDICAL NEEDS IN THE FUTURE  
40 THAT WE DON'T KNOW ABOUT TODAY. SOME

1 ILLNESSES, INCLUDING CANCER, ARE BEST TREATED  
2 WHEN WE KNOW ABOUT FAMILY MEDICAL  
3 HISTORIES. IN ADDITION, SOMETIMES RELATIVES ARE  
4 NEEDED FOR LIFESAVING TREATMENTS. TO MAKE  
5 SURE THIS BABY WILL HAVE A HEALTHY FUTURE,  
6 YOUR ASSISTANCE IN COMPLETING THIS  
7 QUESTIONNAIRE FULLY IS ESSENTIAL. THANK YOU.

8  
9 (c) Personnel of a safe-surrender site that has physical custody  
10 of a minor child pursuant to this section shall ensure that a  
11 medical screening examination and any necessary medical care is  
12 provided to the minor child. Notwithstanding any other provision  
13 of law, the consent of the parent or other relative shall not be  
14 required to provide that care to the minor child.

15 (d) (1) As soon as possible, but in no event later than 48 hours  
16 after the physical custody of a child has been accepted pursuant  
17 to this section, personnel of the safe-surrender site that has  
18 physical custody of the child shall notify child protective services  
19 or a county agency providing child welfare services pursuant to  
20 Section 16501 of the Welfare and Institutions Code, that the  
21 safe-surrender site has physical custody of the child pursuant to  
22 this section. In addition, any medical information pertinent to the  
23 child's health, including, but not limited to, information obtained  
24 pursuant to the medical information questionnaire described in  
25 paragraph (3) of subdivision (b) that has been received by or is in  
26 the possession of the safe-surrender site shall be provided to  
27 child protective services or the county agency.

28 (2) Any personal identifying information that pertains to a  
29 parent or individual who surrenders a child that is obtained  
30 pursuant to the medical information questionnaire is confidential  
31 and shall be exempt from disclosure by child protective services  
32 or the county agency under the California Public Records Act  
33 (Chapter 3.5 (commencing with Section 6250) of Division 7 of  
34 Title 1 of the Government Code). Any personal identifying  
35 information that pertains to a parent or individual who surrenders  
36 a child shall be redacted from any medical information provided  
37 to child protective services or the county agency providing child  
38 welfare services.

39 (e) Child protective services or the county agency providing  
40 child welfare services pursuant to Section 16501 of the Welfare

1 and Institutions Code shall assume temporary custody of the  
2 child pursuant to Section 300 of the Welfare and Institutions  
3 Code immediately upon receipt of notice under subdivision (d).  
4 Child protective services or the county agency providing child  
5 welfare services pursuant to Section 16501 of the Welfare and  
6 Institutions Code shall immediately investigate the circumstances  
7 of the case and file a petition pursuant to Section 311 of the  
8 Welfare and Institutions Code. Child protective services or the  
9 county agency providing child welfare services pursuant to  
10 Section 16501 of the Welfare and Institutions Code shall  
11 immediately notify the State Department of Social Services of  
12 each child to whom this subdivision applies upon taking  
13 temporary custody of the child pursuant to Section 300 of the  
14 Welfare and Institutions Code. As soon as possible, but no later  
15 than 24 hours after temporary custody is assumed, child  
16 protective services or the county agency providing child welfare  
17 services pursuant to Section 16501 of the Welfare and  
18 Institutions Code shall report all known identifying information  
19 concerning the child, except personal identifying information  
20 pertaining to the parent or individual who surrendered the child,  
21 to the California Missing Children Clearinghouse and to the  
22 National Crime Information Center.

23 (f) If, prior to the filing of a petition under subdivision (e), a  
24 parent or individual who has voluntarily surrendered a child  
25 pursuant to this section requests that the safe-surrender site that  
26 has physical custody of the child pursuant to this section return  
27 the child and the safe-surrender site still has custody of the child,  
28 personnel of the safe-surrender site shall either return the child to  
29 the parent or individual or contact a child protective agency if  
30 any personnel at the safe-surrender site knows or reasonably  
31 suspects that the child has been the victim of child abuse or  
32 neglect. The voluntary surrender of a child pursuant to this  
33 section is not in and of itself a sufficient basis for reporting child  
34 abuse or neglect. The terms “child abuse,” “child protective  
35 agency,” “mandated reporter,” “neglect,” and “reasonably  
36 suspects” shall be given the same meanings as in Article 2.5  
37 (commencing with Section 11164) of Title 1 of Part 4 of the  
38 Penal Code.

39 (g) Subsequent to the filing of a petition under subdivision (e),  
40 if within 14 days of the voluntary surrender described in this

1 section, the parent or individual who surrendered custody returns  
2 to claim physical custody of the child, the child welfare agency  
3 shall verify the identity of the parent or individual, conduct an  
4 assessment of his or her circumstances and ability to parent, and  
5 request that the juvenile court dismiss the petition for  
6 dependency and order the release of the child, if the child welfare  
7 agency determines that none of the conditions described in  
8 subdivisions (a) to (d), inclusive, of Section 319 of the Welfare  
9 and Institutions Code currently exist.

10 (h) A safe-surrender site, or personnel of the safe-surrender  
11 site, that accepts custody of a surrendered child or prior to taking  
12 actual physical custody of the surrendered child pursuant to this  
13 section shall not be subject to civil, criminal, or administrative  
14 liability for accepting the child and caring for the child in the  
15 good faith belief that action is required or authorized by this  
16 section, including, but not limited to, instances where the child is  
17 older than 30 days old or the parent or individual surrendering  
18 the child did not have lawful physical custody of the child. This  
19 subdivision does not confer immunity from liability for personal  
20 injury or wrongful death, including, but not limited to, injury  
21 resulting from medical malpractice.

22 (i) (1) In order to encourage assistance to persons who  
23 voluntarily surrender physical custody of a child pursuant to this  
24 section or Section 271.5 of the Penal Code, no person who,  
25 without compensation and in good faith, provides assistance for  
26 the purpose of effecting the safe surrender of a minor 30 days old  
27 or younger shall be civilly liable for injury to, or death of, the  
28 minor child as a result of any of his or her acts or omissions. This  
29 immunity does not apply to any act or omission constituting  
30 gross negligence, recklessness, or willful misconduct.

31 (2) For purposes of this section, “assistance” means  
32 transporting the minor child to the safe-surrender site as a person  
33 with lawful custody, or transporting or accompanying the parent  
34 or person with lawful custody at the request of that parent or  
35 person to effect the safe surrender, or performing any other act in  
36 good faith for the purpose of effecting the safe surrender of the  
37 minor.

38 (j) For purposes of this section, “lawful custody” means  
39 physical custody of a minor 30 days old or younger accepted by  
40 a person from a parent of the minor, who the person believes in

1 good faith is the parent of the minor, with the specific intent and  
2 promise of effecting the safe surrender of the minor.

3 (k) Any identifying information that pertains to a parent or  
4 individual who surrenders a child pursuant to this section, that is  
5 obtained as a result of the questionnaire described in paragraph  
6 (3) of subdivision (b) or in any other manner, is confidential,  
7 shall be exempt from disclosure under the California Public  
8 Records Act (Chapter 3.5 (commencing with Section 6250) of  
9 Division 7 of Title 1 of the Government Code), and shall not be  
10 disclosed by any personnel of a safe-surrender site that accepts  
11 custody of a child pursuant to this section.

12 SEC. 2. Section 271.5 of the Penal Code is amended to read:

13 271.5. (a) No parent or other individual having lawful  
14 custody of a minor child 30 days old or younger may be  
15 prosecuted for a violation of Section 270, 270.5, 271, or 271a if  
16 he or she voluntarily surrenders physical custody of the child to  
17 personnel on duty at a safe-surrender site.

18 (b) For purposes of this section, “safe-surrender site” has the  
19 same meaning as defined in paragraph (1) of subdivision (a) of  
20 Section 1255.7 of the Health and Safety Code.

21 (c) (1) For purposes of this section, “lawful custody” has the  
22 same meaning as defined in subdivision (j) of Section 1255.7 of  
23 the Health and Safety Code.

24 (2) For purposes of this section, “personnel” has the same  
25 meaning as defined in paragraph (2) of subdivision (a) of Section  
26 1255.7 of the Health and Safety Code.

27 SEC. 3. If the Commission on State Mandates determines that  
28 this act contains costs mandated by the state, reimbursement to  
29 local agencies and school districts for those costs shall be made  
30 pursuant to Part 7 (commencing with Section 17500) of Division  
31 4 of Title 2 of the Government Code.